

SEGREGATION OF ROMANI PUPILS IN SPECIAL EDUCATION SYSTEM DESIGNED FOR PUPILS WITH MENTAL DISABILITIES

As the statistics available show, in many countries in Europe, disproportionately high number of Roma pupils attend segregated special education classes or schools designed for intellectually disabled pupils. Despite the fact that in most of these countries no official data is available about the ethnicity of the student body, the numbers are alarming and suggest that existing systems and policies are flawed and discriminatory.

The right to education and the right to be treated equally in relation to access and quality of education are protected by several international human rights treaties and instruments – Art. 2 of Additional Protocol 1 to the European Convention of Human Rights (in conjunction with Art. 14 of the Convention); Art. 13 of the International Covenant on Economic, Social and Cultural Rights (in conjunction with Art. 2 of the Covenant); Art. 5, Art. 2 (1(c)) and Art. 3 of the International Convention on the Elimination of All Forms of Racial Discrimination; Art. 29 of the Convention on the Rights of the Child (in conjunction with Art. 2 of the Convention); General Comment no. 13 of the UN Committee on Economic, Social and Cultural Rights (Right to Education); Art. 6 and Art. 12(3) of the Council of Europe’s Framework Convention for the Protection of National Minorities (in conjunction with Art. 3 of the Convention); Art. 8, 9 and 10 of the Council of Europe’s Recommendation no. R(2000)4 of the Committee of Ministers to Member States on the education of Roma/Gypsy children in Europe.

On the European Union level, the EU Race Equality Directive¹ is the most important piece of legislation prohibiting both direct and indirect discrimination in the domain of education. All the Member States of the EU are obliged to transpose it into their national legal systems and respect this prohibition on discrimination.

The European Court of Human Rights (ECtHR) has already developed an extensive jurisprudence with regards to cases in which applicants have challenged the discriminatory practice resulting in the overrepresentation of Romani pupils in special education (or classes for pupils with special educational needs). The relevant case-law of the ECtHR in this matter includes its judgments in the following cases:

[D.H. and Others v Czech Republic](#), Application no. 57325/00, 13 November 2007

[Orsus and Others v Croatia](#), Application no. 15766/03, 16 March 2010

[Horváth and Kiss v Hungary](#), Application no. 11146/11, 29 January 2013

If you suspect that you, or your child, or someone you know is a victim of such discrimination, there are various steps you can take, including contacting a lawyer specialising in education litigation and contacting the human rights and/or equality bodies in your country, or the ombudsperson, or someone else who can handle a complaint of this kind.

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin